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## THE EUROPEAN FISHERIES FUND



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The Common Fisheries Policy (CFP) has an overall budget of 6.7 billion for the period 2007-2013. 4.3 billion € of this is earmarked for the European Fisheries Fund (EFF)<sup>1</sup>, the new support instrument for structural actions for fisheries and aquaculture for that period. The EFF is the successor policy to the Financial Instrument for Fisheries Guidance (FIFG)<sup>2</sup> which co-financed about 40,000 projects with a Community budget of 4.1 billion € over the period 2000-2006.

Operating on a similar basis as FIFG, albeit in a simpler way, the EFF is better at targeting the objectives of the reformed CFP, notably the adjustment of fishing capacity to fishing resources. It has been tailor-made to secure a sustainable European fishing and aquaculture industry by supporting the industry as it adapts its fleet to dwindling fish stocks by making it more competitive and environmentally friendly. Notably, the environmental dimension of the Fund has been considerably enhanced by designing measures to protect marine resources and to help halt the degradation of marine eco-systems. Another novelty is the assistance to fisheries communities most affected by the decline in fisheries by financing local strategies developed by stakeholder groups.

Member States have to implement the EFF in a two step procedure: a National Strategic Plan (NSP) for the entire fisheries sector defines the overall priorities in the larger context of national and Community policies, a single Operational Programme (OP) chooses the priorities for financial support on the basis of the socio-economic and environmental situation of its fishing sector. The NSP remains a national document, the OPs are adopted by Commission decision after thorough negotiations.

1 Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund

2 Council Regulation (EC) No 2792/1999 on the Financial Instrument for Fisheries Guidance

By the end of 2007, 19 out of 26 OPs<sup>3</sup> were adopted, thus committing 3.3 billion € or 77% of the overall budget for the EFF. The remaining OPs should be approved by mid-2008. The EFF allocations of the approved OPs show a quite even breakdown between priorities 1 (adjustment of the Community fleet), 2 (aquaculture, processing and marketing) and 3 (collective actions) of 27%, 32% and 28% respectively. However, the share of axes varies widely between the different programmes. For example, adjustment of the fishing fleet (axis 1) is applied in a range between 4.3 to 38 % across the OPs depending on the size of the fleet and its restructuring and modernisation needs. Overall, the least funds are allocated to priority 4 (sustainable development of fisheries areas) with a share of 9.5%. This is due to the novel character of the axis and the fact that its actual implementation needs some time for preparation by Member States. With 3.4% the use of Technical Assistance (priority 5) remains largely below the ceiling of 5%.

Whilst all programmes aim at making fishing and aquaculture more sustainable and competitive, the way they intend to achieve this differs. Globally, older Member States tend to concentrate more on innovation and better integration of the different branches of the sector whereas new Member States still have higher restructuring and modernisation needs in the catching, aquaculture and processing and marketing sectors.

OPs may be adjusted over time as may be the EFF to foster efficiency of support. The EFF may also need amendments to reflect new policy developments or changing circumstances. Whether the outcome of the currently ongoing WTO negotiations on fisheries subsidies will already have an impact on this programming period or will lead to the reduction of support possibilities for the fisheries sector after 2013 only needs to be seen.

Post-2013, it is too early to say which and how much support will be available. Reflections have been launched within the Commission on how the challenges and needs ahead can be best tackled by the available budget. Overexploitation of stocks will for sure remain the main challenge. However, climate change will affect fisheries and coastal regions and may require substantial mitigation efforts. Finally, the sustainable and integrated management of seas and oceans as laid down in the recently adopted Maritime Policy<sup>4</sup> will require significant investments in the future, in particular for coastal regions.

*Disclaimer: This article reflects the personal opinion of the author only*

3 Luxembourg is not covered by the EFF.

4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions of 10.10.2007 (COM(2007)575 final was endorsed by the EU Heads of State and Government in the December 2007 European Council.

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# Update on the Common Fisheries Policy

Indrani Lutchman, IEEP

Early in 2008, Commissioner Borg highlighted that 'increasing the performance of the Common Fisheries Policy' was a priority for DG Fisheries and Maritime Affairs (DG Mare) with two specific foci – improving the EU's control regime and specific action on aquaculture. He also highlighted that 2008 would be a decisive year on control. Other issues that the Commission plans to make progress on in 2008 include the revision to the current technical measures for the Atlantic and the North Sea; a review of the RACs to enhance their role in decision making and the establishment of multi-annual plans for key stocks in the Baltic.

## Ongoing challenge: How to ensure compliance with the rules?

Despite a number of changes to the EU control and monitoring system since 2002, the Commission continues to struggle with the challenge of how to ensure compliance with the rules.

As part of its efforts to improve control, the Commission proposed a Council Regulation establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing (COM(2007) 602 final). The proposal is largely based on the outcome of the public consultation that ended in 2007. The IUU proposal aims to extend the framework of fight against IUU to the whole supply chain, and improve its effectiveness using trade-related measures through the ban imports into the EU of fisheries products caught illegally. Specifically, the EU seeks to address all fishing and related activities linked to IUU practices. This includes transshipments, processing, harvesting and landing. The inclusion of the trade dimension is considerable and concerns not only the exports to the EU but also products transiting through the EU to other destinations. This is proposed to be achieved through a certification scheme based on the use of catch certificates to be filled-in by both EU and third countries' vessels.

The Regulation was discussed at the Fisheries Council in April 2008 and the EU Parliament will vote on it at the beginning of June. Eventually, the Council decision should be adopted at the June Agriculture and Fisheries Council. At the time of writing, the Parliament had not voted on this yet, but the April Council revealed some 'sticky' points that Member states do not agree on. For example, should the new regulation apply to Community and third countries fleets or only to third country fleets? This could potentially add to the administrative burden for EU vessels, on top of other requirements regarding control measures. If the plan only targets third countries vessels it has the potential to create a considerable additional non-tariff barrier to exports of catches from third countries to the EU. Debates on the IUU plan continue and will also cover the suitability of proposed sanctions and the need for harmonisation of sanctions within the EU Member States.

On the heels of the strategy to deal with IUU fishing, the Commission is developing a new control and monitoring regime. Major weaknesses in the existing control system were highlighted in the Court of Auditors report (2007)<sup>1</sup> including that basic data

are incomplete and unavailable. The report also highlighted that in cases, where there are infringements, inadequate sanctions have been applied, which are too minor to be dissuasive to offenders. Importantly, these shortcomings have encouraged non-compliance and reduced the profitability of the sector.

These shortcomings echoed the conclusions of a previous report by the Commission, which also highlighted that the lack of sufficient inspections and failure to cross-check VMS data with that recorded in vessels' logbooks was hampering the effectiveness of the EU's control system. In February 2002, the Commission launched a stakeholder consultation as part of an impact assessment to assess a range of measures which it is considering as part of a new control regime. The Commission intends to come forward with a proposal to modernise and reform the control system which will consist of a Communication and a proposal for a Council Regulation. Key to the review is the need for the new regime to be based on simplification, standardisation and cost-effectiveness with the ultimate aim of developing a culture of compliance.

Against this background, the new regime will aim for a series of objectives which include:

- Rationalisation of the rules;
- Strengthening the capacity of the Commission;
- Harmonisation of sanctions;
- Strengthening of cooperation and of assistance;
- Development of a culture of control;
- Use of modern technologies;
- Increasing cost effectiveness; and
- Adapting the mandate of the Agency.

These objectives are very ambitious as is the timeframe for the development of a proposal for a new control Regulation. A range of stakeholders have now responded to the consultation, but the costs and benefits to the administrators and the fishing sector remain major issues to be resolved well beyond the stakeholders' consultation before a new regulation is adopted.

## Revision to technical measures

In 2004, the Council recommended a revision of the Regulation<sup>2</sup> laying down technical measures for the Atlantic and the North Sea with the aim of simplification and consideration of regional characteristics. In 2006, the Council further endorsed a Commission Action Plan on

<sup>1</sup> Special Report No 7/2007 pursuant to Article 248(4) second paragraph, EC, on the control, inspection, and sanction systems relating to the rules on conservation of Community fisheries resources.

<sup>2</sup> OJ L125, 27.4.1998, p.1. Regulation as last amended by Regulation (EC) No 2166/2005

simplification of Community legislation and that all technical measures which are currently dispersed throughout a range of Regulations including the annual Regulation on fishing opportunities should be integrated into one Regulation.

On 9 June 2008, the Commission proposed a new Council regulation, COM (2008)324 which lays down the general principles underlying all technical measures for all EU waters except the Baltic Sea, the Black Sea and the Mediterranean Sea. The Regulation brings together most of the existing technical measures for the Atlantic and the North Sea, but will not include Council Regulation (EC) No812/2004 which lays down measures concerning incidental by-catches of cetaceans in fisheries in the North Sea, Mediterranean Sea and Baltic Sea.

The new measures are targeting discards in particular and include provision for Member States to implement real time closures of areas where there are strong concentrations of juveniles detected (these closures can last up to 10 days); a reduction in the number of species subject to minimum landing size to allow focus on the target species; general application of the NAFO 'move on' rule and greater flexibility in the application of by-catch rules to discourage discarding. It will now be up to Member States to come forward with discard reduction plans for approval by the Commission and this may lead to some derogation to certain technical measures. It is obviously too early to judge how this simplification process and new process of developing discard reduction plans will work. However, the time taken to revise this measure and the insights gained from fisheries outside the EU where successful discard reduction plans are in place should contribute to the implementation of a more effective regulation.

This revised technical measure is long overdue and the simplification of the measures through pulling them under one regulation should lead to better implementation, compliance and enforcement. Key to the success of the new regulation is the flexibility to adapt the general principles to the regional fisheries and the involvement of stakeholders (the RACs) in the development of the measures.

### Looking ahead

The Commission have set out a policy statement for 2009 advocating 'bolder action to

restore our seas to full health'. In the statement it concentrates on changes to the setting of annual Total Allowable Catches (TACs) and changes to the way fishing effort is limited

Although considerable measures were set out in the last reform of the Common Fisheries Policy (CFP) at the end of 2002, including long-term planning, precautionary management and fuller stakeholder consultation, there has been no discernable improvement in fish stocks since then. In fact, compared to the rest of the world where 25% of stock are overfished, in the EU, 88% of stocks are overfished. Lack of complete data or misreporting also means scientists still do not know the status of 57% of EU stocks. Given this situation it is unsurprising that the policy statement for 2009 proposes 'bolder actions'.

Current limits on fishing effort, using a days at sea system, were also meant to reduce fishing effort in line with reductions in TACs and were instrumental in a number of long-term plans including those for cod. However, with a number of derogations, the system has proved ineffective and a more effective approach is needed. Member States and stakeholders now have until 30 June 2008 to submit their comments before the fishing opportunities for 2009 are finalised.

Whilst the stakeholders consider this proposal for fishing opportunities, the growing fuel crisis is applying new pressures for a return to emergency subsidies to assist fishermen. A number of protests have already led to physical confrontations right at the Commission's door in Brussels as fishermen plead for the Commission to intervene. Commissioner Borg issued a statement<sup>3</sup> reacting to the demands by the sector for emergency measures in the form of financial subsidies. He reiterated the position that the Commission had in 2006 when the rise in fuel costs caused a similar wave of protests across Europe. Fuel subsidies for this purpose can only mask the real crisis in the fishing industry and there should be more commitment to realigning the size of the fishing sector with available resources.

While it is clear that some Member States will not cave into pressure for subsidies in these hard times, other Member States have responded by providing financial assistance well beyond that allowed under these circumstances. For example, the French government responded to the protests by announcing a €110 million aid package last month, although Member States are only allowed to provide up to €30,000 in aid over three years without seeking permission from the Commission.

The second half of 2008 is set to be an interesting one, Whilst the upcoming French Presidency is likely to take forward some of the marine issues and whilst it is expected that this would include the Mediterranean-specific issues, the development of MPA networks and an ecosystem-based approach, it is hoped that there would be some movement towards the longer term solutions to set the scene for the 2012 reform.

<sup>3</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/820&format=HTML&aged=0&language=EN&guiLanguage=en>

# Will the WTO produce effective new disciplines on fisheries subsidies?

David Schorr, Independent consultant



Since 2001, trade negotiators at the Geneva-based World Trade Organization have been working towards new international rules to outlaw subsidies that contribute to overcapacity and overfishing. Recently, the talks produced draft rules which environmental advocates hailed as containing the basic elements necessary for success. But the draft remains controversial, with intensive negotiations now proceeding on a monthly basis despite an unrelated diplomatic stalemate that threatens to put the overarching WTO trade talks (of which fisheries subsidies are only a small part) on hold.

While setting international limits on industrial subsidies is a core WTO function, this is the first time the trade regime is seeking rules aimed principally at sustainable resource management. To accomplish this historic step, new WTO disciplines will need to include:

1. A broad and binding ban on most types of direct subsidies to the capital and operating costs of fishing enterprises;
2. Rules limiting subsidies falling outside the ban to fisheries where stocks are healthy, fleets are within strict capacity limits, and management systems are in place (see article on “Sustainability Criteria” by Anja von Moltke, p. 5);
3. Special rules allowing developing countries to subsidize fisheries development wherever there is “room to grow” and sustainability criteria have been met; and
4. “Transparency” rules requiring all governments to publish details about their fisheries subsidies programmes and the fisheries where subsidies are applied.

*Heads of state at the 2001 World Summit on Sustainable Development called new WTO fisheries subsidies rules a top priority for achieving sustainable fisheries. But WTO negotiators must overcome significant challenges if they are to adopt robust new rules.*

Last November, the chair of the negotiations presented a text that takes big strides towards each of these goals. But it also ignited debate. Several delegations—including the EU—are strongly resisting a broad ban. The EU would prefer not to ban subsidies to fishing effort, and proposes only a limited ban on subsidies to capital. For example, the EU is one of several governments arguing in favor of an exemption for subsidies to “small scale” fishing, despite strong evidence that small scale fleets can have big environmental impacts—including on the high seas—and be powerful international competitors.

Several factors seem to underlie the EU position, including the continuing political difficulty of reducing the capacity of Europe’s admittedly oversized fishing fleets. Rising oil prices have also brought mounting pressures to increase already generous fuel subsidies—subsidies that for distant water fleets and bottom trawlers are closely linked to overfishing.

The draft WTO text also suggests significant “sustainability criteria” for subsidies allowed by exceptions to the ban (such as for improving vessel safety) and for those granted by developing countries who would be largely exempted from the ban under the draft rules. While nearly all WTO members (with the possible exceptions of India and Indonesia) accept sustainability criteria in principle, some developing countries argue that strong criteria would be too burdensome. Meanwhile, environmental advocates and a number of developed and developing country governments argue that where funds exist for subsidies, priority should be given to investing in good fisheries management.

One area where the draft text is uncharacteristically weak is its failure to propose significant sustainability criteria for subsidies affecting international stocks. Some countries argue that

membership in a “regional fisheries management organization” should be sufficient to allow such subsidies. But the very poor performance of most RFMOs suggests that more rigorous criteria are needed.

Finally, two elements of the chair’s proposals on transparency are proving especially difficult. First, the draft text includes certain legal consequences for failures to report fisheries subsidies. But WTO members are famously reluctant to publish information about their subsidies. In fact, fisheries subsidies are already subject to existing (and toothless) WTO notification requirements, yet 90% of them have never been properly reported. The chair’s proposal thus runs in the face of longstanding governmental habits.

Second, the draft would require notifications to include information about fisheries management practices in subsidized fisheries, and would subject this information to review by the FAO or another body of fisheries experts. This proposal recognizes that the WTO lacks the competence to examine fisheries management systems, but is contrary to the tendency of WTO members to resist sharing their institutional authority. Even though limited “outsourcing” of fact-finding seems necessary in this case, crafting an acceptable mechanism will be a tough fight.

In sum, the WTO fisheries subsidies negotiations will continue to grapple with some tough and important issues for at least the next several months. If the general WTO negotiations avoid collapse, the talks could conclude within a year. Whether the result will make a real difference for sustainable fisheries remains to be seen.

# Sustainability criteria for fisheries subsidies – Options for the WTO and Beyond

Anja von Moltke, UNEP

## Fisheries Subsidies

It is broadly recognised that inappropriate subsidies contribute to widespread overfishing and to the distortion of trade in fisheries products. Global subsidies are estimated to be within the range of at least 15-20 billion USD per year which constitutes 20% of total annual revenues to the fisheries sector worldwide. Current negotiations in the WTO aim to address this problem through binding new subsidies rules.

While it is hoped that new WTO rules will strictly restrain the use of the most dangerous kinds of fisheries subsidies, the new rules are likely to exempt some classes of subsidies, and give significant leeway to developing countries. It is clear, therefore, that various forms of public support for the fishing industry will continue in the future. Since it is well known that subsidies are least risky where fish stocks are not fully exploited, where fishing fleets are well below full capacity, and where fisheries management systems are strong and effective, it is of highest importance for governments to ensure that all these conditions are established before they subsidize.

## The Need for Sustainability Criteria

In consultation with many governments and other stakeholders, UNEP conducted several meetings over the last few years, resulting in a clearer understanding on what is required to reduce the risks of fisheries subsidies. The UNEP-WWF Symposium in March 2007 and the subsequent workshop in January 2008, for instance, confirmed the high level of interest among diverse stakeholders in crafting WTO Rules that pose appropriate limits on fisheries subsidies.

A UNEP-WWF report released at the end of 2007 responds to this challenge. "Sustainability Criteria for Fisheries Subsidies – Options for the WTO and Beyond" provides an analysis of the fisheries conditions and management practices that could guide both WTO negotiators and domestic policymakers in designing criteria for the use of subsidies that fall outside the scope of a potential new ban. The paper defines three categories of criteria the biological (health of fish stock), the industrial (fleet capacity) and the regulatory (adequate fisheries management) dimension.

Based on an analysis of these criteria, the paper proposes a series of basic tests whose application may allow the risks of fisheries subsidies to be reduced. In each category, criteria are articulated at different levels of environmental ambition where the least ambitious level reflects requirements suitable for use in WTO rules, and the most ambitious level suggests best practices for national subsidies reform.

## Implications of stock, capacity and management criteria

With regards to the less ambitious level – which could

be appropriate for the WTO - the proposed stock-related criteria would require governments to do what many of them are already doing – and what all are obliged to do by well-established (if imperfectly implemented) international norms. Under this category, a pre-condition for granting subsidies would require science-based assessments revealing that the stock is "underexploited".

The capacity-related criteria, in contrast, would require governments to perform quantitative fleet capacity assessments and to articulate capacity management plans. While such steps are clearly promoted by existing international instruments, they are still far from standard practice today. New WTO criteria would then require fleets to be far below full capacity before non-prohibited subsidies were allowed. These rules would effectively require most governments to move substantially beyond the status quo in their capacity management activities.

Finally, the management-related criteria, while only posing rudimentary tests of adequate management, focus on a number of concrete elements of management infrastructure, and could result in significant improvements in the administration of fisheries where subsidies are to be used. For example, governments would be required to register all commercial fishing vessels, and establish a system of mandatory reporting of catches and landings.

## The road ahead

The UNEP-WWF report demonstrates that sustainability criterion for fisheries subsidies can be plausible, solidly rooted in accepted international norms, and tailored both for use in the WTO and in the broader context of diverse national practices.

Yet significant work will be necessary at the WTO and in national capitals if these criteria are to be adopted and put in to practice. While it is understood that sustainability criteria cannot fully eliminate the risks of fisheries subsidies, it is clear that they can play an important role in the fight to end subsidized overfishing.

Fisheries subsidies reform has repeatedly been cited as a positive example – and perhaps as model – for creating mutual supportiveness of the international trade and sustainability. Taking this work to a successful conclusion, offers the WTO a unique opportunity to demonstrate its ability to deliver trade rules that actively promote environmental protection and sustainable development.

The full study and further information on UNEPs work can be found at: <http://www.unep.ch/etb/areas/fisherySub.php>

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# DG Mare: what's in a name change?

David Symes, University of Hull

As highlighted in the CFP update (pages 2-3), what was for many years known affectionately as 'DG Fish' now has a new name: DG Mare or, to give its full title, DG Maritime Affairs and Fisheries. Such changes sometimes prove cosmetic; meant to symbolise a significant change of emphasis or direction, they end up as thin attempts to disguise the same old tired policies. For fisheries, this is not the first name change in recent years. In 2004, marking Commissioner Borg's arrival at the helm, the words 'and Maritime Affairs' were added to DG Fisheries, signalling his intention to embark on a maritime policy for the EC. Less than four years on, the outline of an integrated maritime policy has been delivered (COM(2007) 575 final); otherwise it is hard to spot any real differences. So why indulge in another reshuffle ahead of the 2012 CFP reform when it is likely to fuel speculation especially among Eurosceptic conspiracists?

There is a persuasive logic and much more substance to the latest move. More important than the name change is the reorganisation of the DG's directorates. In place of the old system which separated the basic pillars of the CFP (conservation, markets and structures, together with enforcement) into different directorates, there is now a single horizontal directorate charged with policy development and coordination and three regional directorates each containing units dealing with conservation, structural action and maritime policy. The arrangements for external affairs and markets and for internal administration are largely unaltered.

The opportunities the new structure creates for refocusing the work of the DG are considerable. Although the Commission's press release highlights

the realisation of an integrated maritime policy, the immediate benefits probably lie elsewhere. Most obvious is the potential for greater coherence between the main pillars of the CFP, where previously synergistic development was constrained by separation into different directorates. Scarcely anyone in DG Fish was in a position to offer a fully comprehensive view of what was happening at the regional sea or member state level. The reorganisation can also help prepare



Commissioners Borg and Commission President Barroso

for a redistribution of responsibilities between the European institutions, member states and the fishing industry, allowing the Commission to focus on policy development while member states and the industry assume greater responsibility for policy implementation.

The latest makeover seems to point towards a long overdue regionalisation of fisheries policy recognising the ecological, biological and cultural differences within Europe's 'common pond' and giving greater specificity to the CFP. Some might argue that the DG's 'regions' are too large and that further subdivision is needed to achieve an appropriate level of regionalisation for fisheries management. Here it should be relatively easy to build on the excellent work of the RACs whose configurations fit quite neatly into the

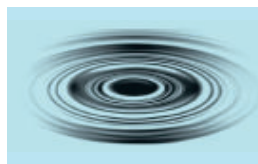
new regional framework.

Finally, there is the intriguing question of how far the creation of DG Mare signifies a change in 'core business', switching attention from what some see as a failing fisheries policy to an integrated approach to managing the EC's maritime space and developing its resources. An integrated approach implies putting fisheries in their proper place alongside more powerful interests such as shipping, energy, recreational use and, of course, environmental services. The loss of political influence that this might imply for fisheries would be a blow to the industry.

But this can only be a long term goal. Maritime policy is still a work in progress. Its eventual implementation will have to negotiate the awkward anomaly whereby the Commission has sole competence for policy formulation only in the case of fisheries; in all other relevant policy areas, including spatial planning, the member state has ultimate responsibility for detailed action. A European maritime policy will therefore be forced to rely on the cooperation of member states acting together at the regional level.

Something is still missing from the grand design. While responsibility for marine environmental management (DG Environment) is divorced from that for maritime policy, the basic platform for ensuring sustainable development remains unsecured. If DG Mare is to serve as a fitting memorial to Commissioner Borg's efforts, then completing the unfinished business could be the legacy of his successor. No name change required!

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*Apart from acting as a source of independent information on fisheries, and the environment, El Anzuolo aims to present different perspectives on the issues, and thereby encourage discussion and debate among the various player. If you wish to respond to material included in this or the previous issue, we would be happy to hear from you.*

# EU-ACP Fisheries Agreements: partners for better and for worse

Béatrice Gorez, CFFA

*In 2004, in a bid to answer widespread criticism about the ‘pay, fish and go’ access agreements it was signing with ACP (African Caribbean Pacific) countries, the EU proposed a new deal: fisheries partnerships agreements (FPAs). FPAs have now been in place for more than three years. Are they delivering the hoped for changes... and if not, why not?*



Source: CFFA

Since FPAs came to life, EU fleets active in developing countries' EEZs have been confronted with ever decreasing profitability due to over-exploitation of the target stocks, and rising costs – fuel in particular. They also face increasing competition for these resources from other long distance fleets, notably from China or Korea. Against this background, it can be argued that FPAs, like the previous access agreements, serve both to diminish fleet access costs and to secure long term access to developing countries resources but are not in line with the principles of sustainable development.

The latest agreement protocol the EU signed with Mauritania provides a good example of outstanding issues relating to FPAs. One of the key species to which EU vessels have access is the highly priced, over exploited octopus, also targeted by local artisanal and industrial fleets. In order to reverse the over exploitation trend, Mauritania recently

developed a management plan for its octopus resource, based on a system of TAC (Total allowable catch). However the way access possibilities are established has not been revised. By granting access to EU fleets, which represents one third of the fishing effort on octopus, with no ceiling on catches, the FPA de facto delays the implementation of this octopus fisheries management plan. Therefore despite the commitment to promote sustainable development, there is a need to address the way access possibilities are established to ensure that this happens in practice.

A major obstacle to changing the way access possibilities are set up, is the explicit link made between the level of access granted to EU fleets and the level of financial support received by the coastal ACP country. Many argue for a de-linking of the elements to ensure that EU fleets do not contribute to the over-exploitation of ACP

resources. There have been some changes in this regard. For example, the latest FPA with Guinea Bissau, contain lists of objectives and performance indicators to monitor the spending of the EU financial contribution. These objectives and performance indicators detailed in this recent FPA comply with the requisite already identified in international fora relating to sustainable fisheries (e.g. the need for independent inspectors, for vessel register, etc). However, the inclusion of these objectives and indications should be seen as paving the way for the EU to interfere in a third country national policy. Whilst useful, there are concerns that the quantitative nature of the indicators may not be useful in assessing whether ACP fisheries are sustainable or not. However, their inclusion in FPAs ensures the links between the part of the financial contribution aimed at supporting sustainable fisheries development and the realization of a series of fisheries policy objectives and this may herald the progressive de-linking of the financial contribution from the level of access granted.

Another issue being pursued particularly by Pacific ACP States is the need to link shore-based investment to access to fishing grounds. However, this presupposes that the national public infrastructures and related facilities, and market and other conditions will ensure

the economic profitability of the operation. It is hoped that the development of a favorable environment for economic activities linked to the tuna fisheries could be supported by the EU FPAs, or more broadly, the Economic Partnership Agreements (EPAs) currently being proposed as a replacement for the Cotonou Agreement. It is important, however, that investments in on-shore operations be linked to the conservation of regional tuna stocks and the collective access policy of the Pacific ACP group. This would mean that FPAs, which are currently bilateral by nature will increasingly, have to integrate regional dimensions. There has been some progress in relation to the gradual harmonization of access conditions provided through tuna agreements, in line with RFMO recommendations.

Finally, there is pressure on the EU to play a positive role in the addressing corruption in ACP states. Corruption thrives on a lack of transparency and the EU must make more efforts to make negotiations of agreements more transparent as well as the ex-ante evaluations of FPAs to ensure that it does not fuel corruption in ACP states.

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# European shark management, a long overdue plan, now a little closer

Julie Cator, Oceana - Europe

Sharks, apex ocean predators, have received bad press over the years as dangerous creatures to be eliminated. A general fear and low public awareness, coupled with an overall lack of scientific data and political will, are arguments that explain why, until very recently, sharks have been largely “forgotten” by the Common Fisheries Policy.

Catches of sharks and related species continue on the whole to be unrestricted and unreported by EU fleets. One of the few regulations that do exist, the prohibition on shark finning, contains loopholes that severely limit its effectiveness to prevent this illegal practice.

Today, sharks are target species in many EU fisheries around the world. As well as being caught for meat, they are especially sought after for their high value fins which are exported to Asian markets to make the traditional shark fin soup. Recent studies of the Hong Kong shark fin market estimate that between 26 and 73 million sharks are caught each year for their fins alone. In addition, many species are caught as by-catch in other fisheries.

The European Union is home to some of the biggest shark-catching countries in the world: Spain, Portugal and France. In 2006, EU countries caught a total of nearly 95,000 tonnes of elasmobranchs (sharks and related ray and skate species).

But this fishing bonanza cannot continue indefinitely. According to the IUCN, one third of European elasmobranchs are threatened, and the Mediterranean Sea has been named the most dangerous place in the world for sharks. Over 40% of sharks and rays here are threatened by extinction.

However, if all goes to plan, sharks are set to have a brighter future. Late last year the European Commission opened an official public consultation process as a first step towards drafting the long overdue EU Plan of Action for the Conservation and Management of Sharks (POA).

The origin of this plan goes back almost 10 years to 1999 when the UN Food and Agriculture Organisation (FAO) adopted the International Plan of Action for the Conservation and Management of Sharks (IPOA Sharks). Despite commitments to implement the IPOA Sharks, the Commission is only now seriously turning its attention to this issue and putting pen to paper.

The Commission plans to publish the EU Plan of Action for Sharks at the end of 2008, setting out its rationale and intentions to improve shark management and conservation. Implementation will entail the modification of some existing regulations and possibly the adoption of new ones.

Early signs are positive that a strong plan will be published. In the introduction to the consultation paper the Commission acknowledges, inter alia, the need for further management for sharks, both in EU waters and externally. The Commission also recognises that many species are



Vigo Freshmarket. Stacked Blue Sharks

critically endangered, asks that scientific advice is followed when establishing catch limits, calls to reduce shark by-catch and eliminate discards, considers as a priority the need to improve the shark finning regulation and calls for the improvement of species specific catch and landing data and the monitoring of shark catches.

Oceana has been campaigning for years for a sound and comprehensive science-based EU Plan of Action and welcomes this initiative as the start of a concerted effort to implement effective management for shark species. Oceana hopes that the initial statement by the Commission develops into a strong Plan of Action with comprehensive measures outlined and a rigorous timetable for action.

One of the key - but also perhaps most controversial - issues is a strengthening of the finning regulation. A proposal to amend this regulation to put an end to the removal of fins on board vessels and to require that sharks only be landed with their fins attached would be an effective way to strengthen control of the fishery and thus prevent illegal shark finning.

Equally essential is the need to establish science-based fishing limits for commercialised shark species in accordance with the Common Fisheries Policy. Some shark species, like the blue shark and mako shark, have been recognised by the Commission as “targeted species” but no catch and/or effort limits have been established for them.

For all these reasons and, since the Plan of Action is long overdue, Oceana would welcome the publication of a “Shark Package” – i.e., the publication of legislative proposals along with the Communication, particularly for the most pressing issues, in order to move the issue along from being merely a plan and statement of intentions to actual action.

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# Navigating the EU's new Marine Strategy Directive

Saskia Richartz, Greenpeace

In October 2005, the European Commission proposed a new EU law for the protection of Europe's seas – known as the Marine Strategy Directive. The Commission's intention was to fill a gap in the EU's conservation policy, which at the time was largely focused on its land territory. The proposal formed the most important part of a broader EU strategy for marine protection, published at the same time.

Over the past three years, the European Parliament and the Council of Environment Ministers discussed and amended the proposed Directive. In late 2007, negotiations ended in an agreement on the text of the new law. As expected, the European Parliament showed significantly more will to adopt an ambitious and target-driven Directive than the 27 Member States. The outcome, as so often, is a mixed bag. Nonetheless, some important ground has been covered.

The Directive requires Member States to:

- protect and preserve the marine environment, prevent its deterioration and restore marine ecosystems in areas where they have been damaged;
- prevent and reduce pollution, with a view to phasing it out;
- ensure that the collective pressure from human activities is kept within levels compatible with the achievement of a Good Environmental Status.

It covers the full range of impacts on the marine environment, including physical damage and other disturbances, caused by e.g. trawl fishing or gravel extraction, interference with hydrological processes, as can be the result of discharges from power stations for example, contamination by hazardous substances and biological disturbances, such as detrimental shifts in the predator/prey ratio.

## Waypoints to achieving healthy marine seas

- by 2012, prepare an initial assessment of the current environmental status of their waters;
- by 2012, determine in detail what a good environmental status looks like in respective regions;
- by 2012, establish a series of detailed environmental targets and associated indicators;
- by 2014, have established and be implementing a monitoring programme for the ongoing assessment and regular updating of the above targets;
- by 2015 at the latest, have developed a programme of measures designed to achieve or maintain a Good Environmental Status; and
- by 2016 at the latest, enter such programmes of measures into operation.

The sum of these administrative steps is called a "Marine Strategy" and will have to be produced and implemented by each Member State for their waters in each marine region separately.



The scope of the Directive is limited to the waters under the jurisdiction of the EU Member States, including their sea-bed and subsoil. In other words, the Directive does not cover international waters, nor the waters of non-EU countries

## Fishing for improvements and consistency

In agreeing the Directive, Member States and the European Parliament have committed themselves to further foster the integration of environmental concerns into other relevant policies, such as the EU's Common Fisheries Policy (CFP). Moreover, the Directive requires the EU to come forward with fisheries measures that meet the requirements of the Directive. These may include the full closure of fisheries of certain marine areas to safeguard, for example, spawning, nursery and feeding grounds. In general, they will be aimed at meeting the following targets until 2020:

- populations of all commercially exploited fish and shellfish must be within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock;
- all elements of the marine food web must occur at normal abundance and diversity and levels capable of ensuring the long-term abundance of the species and the retention of their full reproductive capacity;
- biological diversity must be maintained and the quality and occurrence of habitats, and the distribution and abundance of species, are kept in line with prevailing conditions;
- sea floor integrity is maintained at a level that ensures the safeguarding of structure and functions of the ecosystems prevents the adverse impacts on benthic ecosystems.

Lets hope we haven't missed the boat.

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# Creeping up on the Ecosystem Approach

Dr Euan Dunn, BirdLife International

In 2002, Art 2 of the CFP reform (Council Reg (EC) No 2371/2002) included the unprecedented commitment to 'aim at a progressive implementation of an ecosystem-based approach to fisheries management'. Although the Commission has already taken a number of welcome initiatives and actions in pursuit of an ecosystem approach, these have too often been reactive to particular issues, and as such have been ad hoc and piecemeal rather than the coherent, overall strategy so urgently needed. The publication on 11 April of DG Mare's Communication on 'The role of the CFP in implementing an ecosystem approach to the marine environment (COM(2008) 187 final)' was therefore a keenly awaited event. The first part of the Communication consists of a meagre 10 pages of text, but it is backed up by a 35-page Staff Working Document (SEC(2008)449) on indicators. As the Communication's 'Introduction and scope' make clear, it is a contribution to the Integrated Maritime Policy framework and its environmental pillar, the Marine Strategy Framework Directive, both of which form the basis for implementing a cross-sectoral ecosystem approach in the marine environment. So the fundamental question is: Does this new Communication amount to a more strategic approach? The stated objectives of the Communication are to:

- report on those aspects of the CFP which have contributed to the implementation of an ecosystem approach so far;
- present how the CFP links to the integrative, cross-sector implementation of an ecosystem approach to marine management;
- show how measures taken under the CFP in future will be guided by an ecosystem approach as the overarching principle.

The Communication addresses all of these but falls short of an ambitious vision or roadmap for making an ecosystem approach operational (and indeed it could scarcely have been expected to do so in ten pages). On the plus side, the Communication highlights most of the offshore fisheries issues in need of attention. Top of its priorities, and rightly so, is the need to reduce overall fishing pressure, principally through aspiring to MSY and the discards policy. With 80% of Community stocks still overfished, and 30% of assessed stocks outside safe biological limits, it is sometimes overlooked that reduction of fishing effort is the single most powerful change capable of lightening the environmental footprint of fishing, whether it be direct mortality on seabirds and other biodiversity, or indirect effects through alteration of the food web. The Communication does indeed acknowledge the need for measures to 'prevent distortions in the food web' and mentions the sandeel closure as an example (even if it does locate this wrongly on the 'west coast of Britain' instead of the east coast).

It would have been helpful if the 'scope' had been more explicit about elements that are not covered. The Communication excludes aquaculture because (although this is not stated) aquaculture falls more to Member State than Commission competence. Nevertheless, this gap is not necessarily intuitive, given the extent to which the European Fisheries Fund (EFF) focuses on supporting environmentally sustainable aquaculture.

There is also little steer on how the Communication should address the external dimension of the CFP, apart from the bullet that 'The Community will support initiatives to promote an ecosystem approach in RFMOs, in the UN framework and other international fora and, where appropriate, in bilateral agreements'. Much more could have been made of the linkage to Fisheries Partnerships with third countries where actual measures to mitigate the environmental impacts of EC-flagged vessels are outside the radar of this Communication.

In operational terms, however, the most disappointing omission is the absence of any explicit aim to develop Fisheries Ecosystem Plans (FEPs) for regional seas along the lines of the model conceptualised in the USA and the North Sea<sup>1</sup>, and reinforced by the Göteborg Declaration of the North Sea Ministerial Meeting (2006) which included the commitment to 'develop a fisheries ecosystem plan for the North Sea... adopt it by 2010 and implement it immediately thereafter'. Without this regional dimension, it is hard to see how the Commission can oversee the rolling out of an ecosystem approach in a systematic way that addresses the geographical diversity of marine ecosystems in Community Waters. The Commission's view is that development of FEPs is implicit in the regional implementation of the Marine Strategy but an opportunity has been missed to spell out the FEP approach in plain language and how it to should be taken forward in each of the Community's regional seas. The Regional Advisory Councils badly need this steer from the Commission to move from passive - or at best reactive - to proactive on the ecosystem approach.

If these dimensions of the Communication are lacking, the accompanying Staff Working Document is much more forthcoming on the eight indicators developed to monitor the effective implementation of an ecosystem approach. The creation of such a set was originally committed to in the Communication 'setting out a Community Action Plan to integrate environmental protection requirements into the CFP' (COM (2002) 186 final).

A number of research projects are proposed for developing each indicator, which range across key issues of sustainable use, including the need to find a systematic approach to dealing with seabird declines and bycatch issues. The projects link to the stated commitment in the new Communication to publish a Community Plan of Action for addressing seabird mortality in fisheries in 2009, echoing the shark plan scheduled for 2008. In summary, the Communication is certainly a step forward in clarifying the destination and ways of measuring progress towards it. But it falls short of the detailed roadmap needed on how to get there. More direction and leadership are called for if the 'progressive implementation of an ecosystem approach' mandated in the 2002 CFP reform is to help halt the decline of biodiversity in the EU by 2010.

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<sup>1</sup> <http://www.ist-world.org/ProjectDetails.aspx?ProjectId=c63d16fe7fce48409c23ff916bf195ea&SourceDatabaseId=9cd97ac2e51045e39c2ad6b86dcelac2>

The Institute for European Environmental Policy (IEEP) is an independent body for the analysis and advancement of environmental policies in Europe. While a major focus of work is on the development, implementation and evaluation of the EU's environmental policy, IEEP has also been at the forefront of research and policy development in relation to the integration of environmental considerations into other policy sectors.

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